



Correspondence Management System

Control Number: AX-12-001-1978

Printing Date: July 23, 2012 11:32:40



Citizen Information

Citizen/Originator: Bertish, Djiva Michael

Organization: Rosemere Neighborhood Association

Address: PO Box 61471, Vancouver, WA 98666

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

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Alternate Number: N/A

Status: Pending

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Addressee Org: EPA

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Signature: DX-Direct Reply

Signature Date: N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File - Title VI Public Comments on EPA EJ Plan 2014; Rosemere vs. EPA

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: Linda Huffman - OECA
OEAE - Office of External Affairs and Environmental Education
OECA - OECA -- Immediate Office
OGC - Office of General Counsel -- Immediate Office
R10 - Region 10 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OCR	Jul 23, 2012	Aug 7, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History



ROSEMERE NEIGHBORHOOD ASSOCIATION

P.O. Box 61471, Vancouver, WA 98666 www.RosemereNA.org (360) 281-4747

July 17, 2012

Lisa Jackson
Administrator
Attn: Plan EJ 2014
USEPA
Office of Environmental Justice
Mail Code 2201-A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

In March 2010, the US District Court of Washington entered a Stipulated Judgment in favor of the Rosemere Neighborhood Association, concluding a seven year stretch of administrative Title VI complaints and litigation in Rosemere v. EPA.

In February 2003, Rosemere first filed a Title VI administrative complaint with EPA's Office of Civil Rights ("OCR") alleging that the City of Vancouver, WA had discriminated in the provision of municipal services in violation of the Civil Rights Act of 1964. Rosemere alleged that Vancouver failed to use EPA funds to address fairly long-standing problems in low-income and minority neighborhoods in West Vancouver.

Soon after, the City of Vancouver began an investigation into the internal operations of Rosemere and then revoked Rosemere's status as a "recognized" neighborhood association. The city also stripped the neighborhood of its historical name, actions later deemed "suspicious" by EPA in an investigative report. Rosemere filed a second Title VI complaint with the EPA in December 2003 alleging retaliation by the City of Vancouver. Rosemere filed suit against EPA on two separate occasions citing EPA's failure to accept, investigate, and issue findings on Rosemere's complaints. Each time, EPA responded to Rosemere only after the litigation was filed and EPA sought to dismiss the cases as "moot."

In September 2009, the Ninth Circuit reversed the District Court's ruling to dismiss Rosemere, citing EPA's "consistent pattern of delay." The appellate court substantiated the claim that Rosemere is in "realistic danger of sustaining a direct injury as a result of the agency's [EPA's] disregard of its own regulations" by failing to investigate Title VI complaints. In the subsequent settlement agreement for that case, EPA's Office of Civil Rights admitted that its actions were unlawful when it failed to process Rosemere's complaint of retaliation against the City of Vancouver in accordance with the law. During the lawsuits, discovery showed that EPA investigators were either biased against Rosemere or did not follow investigative protocols to produce an informed ruling. In our experience, this lack of integrity in the investigative process only exacerbated the impacts brought to light in the Title VI complaints.

Despite Rosemere's lawsuit and the subsequent national debate of the failures of the OCR, and despite your continued promises for EPA to increase efficiency in that office to make Environmental Justice a national priority, the OCR continues to fail in its intake and investigation guidelines in regard to Title VI complaints. To date, the EPA has ignored Rosemere's various requests to meet with you and to voice our concerns and share

our experiences in order to offer suggestions to improve OCR's operations. And to date, only one case has ever attained a ruling of discrimination in support of Title VI claims [Angelita C. v. California Department of Pesticide Regulations] and it took more than ten years to achieve that result. Most cases are dismissed outright, claiming jurisdictional issues or other bureaucratic problems. Many groups across the country wonder why the OCR functions under such a dismal record, and this points succinctly to how OCR is disconnected from the disparate impacts that can be suffered by Environmental Justice populations nationwide.

Environmental Justice Enforcement is a very important tool that should be used to address discrimination that can cause adverse health impacts and environmental harm to neighborhoods where low income and minorities live and work. Whereas we appreciate the Title VI Supplement's attempt to begin to fine tune the various agency failures, we feel that the timelines are vague and deficient and that they need to be more detailed to ensure future compliance success. We offer the general comment that EPA's enforcement model under the supplement attempts only gentle compliance -- collaboration, and conciliation rather than the promise of clearly defined relief. For example, in the Angelita case, the state of California did not experience the withholding of federal funds as required under Title VI guidelines when a real first-time case discrimination was established. We acknowledge that the state of California is currently experiencing a serious budgetary crisis, and that a freeze of federal funds as mandated under Title VI could be very serious, but without consistent penalties for discriminatory behavior there can be no success in altering the on-the-ground conditions that contributed the disparate impacts.

Furthermore, the agreement that EPA made in this case with the state of California was made absent the citizens that brought the complaint forward. The impacted parties in the Angelita case were left entirely out of the settlement process and their voice was not considered. Rosemere finds this to be an exacerbation of the harms already suffered by the complainants. The Title VI program is the only pathway for the public to address issues of environmental discrimination, and removing the plaintiffs from the settlement discussions is ethically and morally wrong. EPA hailed the Angelita case as a giant step forward, but we disagree with this assessment. Furthermore, the settlement did not require the state of California to stop spraying pesticides that were harming Latino school children, but instead only required additional monitoring of the problem. This outcome does not adequately address the significant Title VI problem brought before the agency. There still appears to be a cerebral disconnect between Washington D.C. and the on-the-ground problems brought forward by the community. Thus, OCR's actions appear to be arbitrary rather than objective, especially without documented investigational protocols in place.

Rosemere generally agrees with the broader goals of the Title VI Supplement, but we feel the necessary details of implementing a successful program are absent. Were OCR to implement better enforcement protocols and more objective investigative procedures that showed better results, the public would be more apt to support the overarching goals of community education for Environmental Justice as envisioned when the program was initiated via President Clinton's Executive Order. It is our opinion that the Title VI Program and the currently vague investigative procedures seem to merely be tailored to support the agency that is being investigated rather than support the complainant. Rosemere experienced this first hand when OCR held in depth interviews with the City of Vancouver, and decided to dismiss our complaint without even interviewing our list of witnesses. The process in the Rosemere case became a political matter rather than a means to achieve relief from discrimination.

It is our understanding that EPA has not responded to public comments submitted by various groups over the years that pertain specifically to Title VI procedural guidelines. The final supplement should be very specific about guidelines and use established protocols to keep investigations objective, similar to the way the Superfund petition process works. For example, if a complaint scores, it moves on to the next investigative level without fail.

It is hard to believe how after 20 years in the Environmental Justice program only one case was found to have merit. Rosemere did establish a prima facie case of retaliation on its face, but the lack of investigation sullied the final report, and the initial Title VI concerns that were the catalyst for the administrative complaint were never addressed. The whole point of Rosemere's original Title VI complaint was that the policies of local government supported the existence of ghettoism, wherein areas of low-income and minority populations did not enjoy the same benefits of more affluent sections of the developed urban area, and the result was substandard living conditions and an increase in environmental harm. There was no investigation into how local governmental decisions contributed to the decline of low-income and minority property values where EPA's Environmental Justice thresholds had been met, and even EPA staff at the regional level were embarrassed that EPA headquarters refused to see the merits of the Rosemere case. Instead, EPA chose to dismiss legitimate concerns using technical deficiency in the Title VI complaint as an excuse. In the end, EPA's behavior in this case (and many others) simply condoned the discriminatory behavior that contributed to reduced standard of living for the impacted Environmental Justice community.

The Title VI Supplement indicates EPA will re-evaluate its Title VI investigative protocols in coordination with the U.S. Department of Justice. This was something that was promised by OCR more than two years ago during litigation with Rosemere. Basic Department of Justice investigative guidelines could have been implemented immediately, and the delay on this important task makes the public question EPA's stated commitment to making the Title VI program a national priority. Simply reshuffling OCR staff while maintaining the status quo is not sufficient to forward the cause. It is reasonable for the community to participate directly in revamping OCR's operations. It is reasonable for the community to request EPA to be more open, to collaborate with the complainants as well as the agencies that are the target of complaints. Please don't let this process degrade further into a debate limited to state's rights of self government v. federal regulation. That argument is easily used to dismiss valid claims of discrimination and only points out how civil rights violations continue unabated in our nation.

Thank you for your consideration of these comments. Rosemere requests the ability to be included in future ongoing dialogue with you in order to help facilitate much needed improvements in OCR's operations.

Sincerely,

A handwritten signature in black ink, appearing to read "Dvija Michael Bertish", with a long horizontal flourish extending to the right.

Dvija Michael Bertish
Director of Environment & Conservation
Rosemere Neighborhood Association
360-281-4747
www.rosemerena.org



Correspondence Management System

Control Number: AX-12-001-2023

Printing Date: July 23, 2012 04:39:02



Citizen Information

Citizen/Originator: Goldberg, Steven J

Organization: BASF Corporation

Address: 100 Campus Drive, Florham Park, NJ 07932

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2023 **Alternate Number:** 798622383060
Status: Closed **Closed Date:** Jul 20, 2012
Due Date: N/A **# of Extensions:** 0
Letter Date: Jul 13, 2012 **Received Date:** Jul 19, 2012
Addressee: AD-Administrator **Addressee Org:** EPA
Contact Type: LTR (Letter) **Priority Code:** Normal
Signature: SNR-Signature Not Required **Signature Date:** N/A
File Code: 401_127_a General Correspondence Files Record copy
Subject: Daily Reading File - EPA 2010/15 PFOA Stewardship Program BASF Corporation
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OAR - Office of Air and Radiation -- Immediate Office
OEAE - Office of External Affairs and Environmental Education

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OCSPP	Jul 19, 2012
Zelma Taylor	OCSPP	OCSPP-OPPT	Jul 19, 2012

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to OCSPP	Jul 19, 2012
Zelma Taylor	OCSPP	Forwarded control to OCSPP-OPPT	Jul 19, 2012
Florence Brooks	OCSPP-OPPT	Closed control by finished FYI task	Jul 20, 2012



The Chemical Company

DAILY READING FILE

7/11

RECEIVED

2012 JUL 18 PM 2:01

By Federal Express

July 13, 2012
OFFICE OF THE
EXECUTIVE SECRETARIAT

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (1101A)
Washington, DC 20460

RE: EPA 2010/15 PFOA Stewardship Program
BASF Corporation

Dear Administrator Jackson:

On behalf of BASF Corporation (BASF), I enclose a revised *2010 PFOA Stewardship Status Report* describing BASF's progress toward reducing the quantity of perfluorooctanoic acid ("PFOA", or "C8") and "related substances" (i.e., precursors and higher homologues) released from production facilities or contained in product lines that BASF acquired in 2010 from Ciba Corporation (Ciba). This revision is needed to address computational errors found in the 2010 entries in Table 2, "*Outside of the United States*", during a post-submission review of the October 27, 2011 cover letter. Ciba's commitment to EPA, made in 2006 as a participant in US EPA's voluntary 2010/15 PFOA Product Stewardship Program, was to achieve a 95% reduction in the quantity of C8-related substances released from legacy Ciba production facilities and contained in Ciba products during CY 2002 (its "baseline" year). Ciba had also committed to work toward the global elimination of C8-related substances from its production facilities and product lines by 2015. BASF intends to honor Ciba's commitment to meet the 2015 milestone and discusses below the progress made toward meeting the 2010 milestone.

Background: Ciba was one of eight (8) companies who agreed to participate in EPA's 2010/15 PFOA Product Stewardship Program. Ciba was the only participant who was neither a fluoropolymer or fluorotelomer manufacturer but rather a customer of one of the other seven participants. Ciba purchased fluorotelomer for use as a raw material to make products it sold to paper companies, for use in food packaging, and to a variety of industrial customers (e.g., as components of dispersions sold into paint, ink and other applications). The fluorotelomer purchased by Ciba contained low concentrations of PFOA, an impurity. We understand Ciba elected to participate in EPA's stewardship program given its manufacture and sale of C8 telomer-based products, in light of reports that PFOA and/or related substances were demonstrating persistence in the environment, the potential for long-range transport, and growing detection in human blood surveys. Ciba provided an annual progress report each year, describing its US and global progress in reducing C8-related emissions and product content, without discounting its report to reflect the fact that much of the stated product content would not be regulated by US EPA under TSCA but rather by the United States Food and Drug Administration (FDA) under the FFD&CA.

Summary of 2010 Progress Report:

I. United States: I am pleased to report that C8-related PFOA emissions and product content from the legacy Ciba operations located in the United States have been effectively reduced to zero. There has been no US-located production of C8 products for several years. As reflected in Table 1, the percentage reduction from the 2002 Baseline totals approaches 100%.

Table 1: United States

Source	Annual PFOA Emissions & Product Content (Lbs)	Annual Precursor Emissions & Product Content (Lbs)	Annual Higher Homologue Emissions & Product Content (Lbs)	US Total PFOA + Related Substances (Precursors, Higher Homologues)
U.S. sources				
2002	66	<14	59	139
2006	0.1	0	0.1	0.2
2007	0	0	0	0
2008	0	0	0	0
2009	0	0	0	0
2010	0	0	0	0

II. Outside of the United States:

As reflected in Table 2, outside the United States, a 98% reduction in PFOA (emissions plus product content) had been achieved by the end of 2010. As a result of certain European operations, we have not yet achieved a 95% reduction of PFOA plus “related substances” (i.e., when including precursors and higher homologues). However, we anticipate achieving this first milestone over the next 18 months and remain confident that BASF will meet the second milestone in EPA’s 2010/2015 PFOA Stewardship Program -- working toward the global elimination of PFOA and “related substances” from our production facilities and product lines by 2015.

Several factors have contributed toward our progress, including the design and implementation of end-of-pipe PFOA-reduction technology at one of our European production facilities, decreases in the PFOA content of our telomer raw material, sale of product lines, shut down of production, and the proposed use of alternate C-6 and/or non-fluorinated chemistry to replace C8-related chemistry where possible.

Table 2: Outside of the United States

Source	Annual PFOA Emissions & Product Content (Lbs)	Annual Precursor Emissions & Product Content (Lbs)	Annual Higher Homologue Emissions & Product Content (Lbs)	Ex-US Total PFOA + Related Substances (Precursors, Higher Homologues)	Global totals (US + ex-US -- PFOA + Related Substances)
Ex-US					
2002	1006	965	833	2804	2943
2006	65.4	2233	76	2375	2375
2007	36	4051	30	4117	4117
2008	29.8	2579	24.7	2634	2634
2009	23.8	2616	50	2690	2690
2010	21.0	390	1656	2067	2067

BASF is actively developing and commercializing alternative products within relevant product lines, particularly those manufactured in Europe, that are not based on C8 fluorotelomer chemistry. Assuming successful product registrations and launches, the precursor/higher homologue content of certain products manufactured in Europe would be significantly reduced, which should help drive BASF's Ex-US PFOA + Related Substances emissions and product content toward zero. We anticipate importing certain of these products for sale within the United States, assuming successful TSCA inventory listings and market acceptance.

At BASF, we take our product stewardship commitments quite seriously. We are proud of having achieved greater than 95% global reduction of PFOA emissions and product content and look forward to meeting the 2015 Program goal. Should you have any questions about this report, please feel free to contact me.

Sincerely,



Steven J. Goldberg
Vice President and Associate General Counsel
Regulatory Law & Government Affairs

Attachment: BASF's 2010 PFOA Stewardship Status Report (provided under separate cover)

Copy of cover letter only by Federal Express and E-Mail to:

doa.maria@epa.gov

Dr. Maria Doa, Director, Chemical Control Division (CCD)
U.S. EPA Office of Pollution Prevention and Toxics
1200 Pennsylvania Avenue, NW (7401M)
Washington, DC 20460



Correspondence Management System

Control Number: AX-12-001-2079

Printing Date: July 23, 2012 01:13:46



Citizen Information

Citizen/Originator: Cooley, Robin

Organization: Earthjustice

Address: 1400 Glenarm Place, #300, Denver, CO 80202

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2079

Alternate Number: 7986 3423 0652

Status: Pending

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Due Date: Aug 6, 2012

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Letter Date: Jul 19, 2012

Received Date: Jul 20, 2012

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: DX-Direct Reply

Signature Date: N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File- Petition for Reconsideration of 2008 National Standards for Ozone and Petition for New Final Nonattainment Designation for the Uinta Basin, Utah

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OEAAE - Office of External Affairs and Environmental Education

OP - Office of Policy

R8 - Region 8 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Jul 23, 2012	Aug 6, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
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EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

July 19, 2012

Ms. Lisa P. Jackson
Office of the Administrator
Environmental Protection Agency
Room 3000
Ariel Rios Building
1200 Pennsylvania Ave., NW
Washington, DC 20460
Email: Jackson.Lisa@epa.gov

RECEIVED
2012 JUL 20 AM 10:34
OFFICE OF THE
EXECUTIVE SECRETARY

BY FED-EX AND EMAIL

Re: Petition for Reconsideration of 2008 National Standards for Ozone and Petition
for New Final Nonattainment Designation for the Uinta Basin, Utah

Dear Administrator Jackson,

The following organizations file this petition for reconsideration and petition for a new final rule pursuant to Clean Air Act § 307(d)(7)(B), 42 U.S.C. § 7607(d)(7)(B): WildEarth Guardians, 516 Alto Avenue, Santa Fe, NM 87501, (505) 988-9126; Southern Utah Wilderness Alliance (SUWA), 425 East 100 South, Salt Lake City, UT 84111, (801) 486-3161; and Utah Physicians for a Healthy Environment, 4091 Splendor Way, Salt Lake City, UT 84124, (801) 243-9089 ("Petitioners"). Petitioners request that you reconsider certain aspects of the final rule titled "Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards," 77 Fed. Reg. 30,088 (May 21, 2012). Specifically, we ask the Environmental Protection Agency (EPA) to reconsider its decision to classify the Uinta Basin in Utah as "unclassifiable" and to issue a new final rule designating the area as "nonattainment."

EPA must consider this petition for reconsideration because EPA did not provide a rationale for its failure to consider monitoring data from the Uinta Basin showing severe violations of the 2008 ozone standard as evidence of nonattainment until the response to public comments, which was published after the final rule. Additionally, there is new information that arose after the public comment period closed demonstrating there will be significant increases in ozone precursor emissions as a result of oil and gas development in the Uinta Basin, which will make the existing problem worse. It was impracticable for petitioners to raise objections to EPA's rationale prior to the close of the public comment period or to comment on the new information, and these issues are of central relevance to the final rule. *See* 42 U.S.C. § 7607(d)(7)(B) (setting forth the standard for petition for reconsideration).

BACKGROUND

The Uinta Basin in northeastern Utah is now home to some of the worst ground-level ozone pollution in the nation as a result of rampant oil and gas development and meteorological conditions. This 9,000 square mile basin includes lands under the jurisdiction of the federal government, the State of Utah, and the Ute Tribe.¹

Ground-level ozone, or smog, forms from a chemical reaction between volatile organic compounds (“VOCs”) and nitrogen oxides (“NOx”) in the presence of sunlight. Ozone is a dangerous air pollutant that impairs breathing, aggravates asthma, sends thousands of people to emergency rooms and hospitals, and likely causes thousands of early deaths each year.² Children, the elderly, and people with existing respiratory conditions are the most at risk from ozone pollution.³

Ozone pollution has long been recognized as a big-city problem that peaks in the summertime, caused by VOC and NOx emissions from automobiles and industrial sources. It has only recently been recognized as a wintertime problem in rural areas with significant oil and gas development, such as the Uinta Basin and Sublette County, Wyoming.⁴ In these areas, significant quantities of NOx and VOCs from oil and gas activities are trapped near the ground by stagnant air and converted to ozone by intense sunlight reflecting off snow.⁵ When these conditions occur, these rural areas experience ozone levels that exceed those of the most heavily populated cities in the U.S.⁶

¹ Bureau of Econ. Research, *The Structure and Economic Impact of Utah's Oil and Gas Exploration and Production Industry Phase I - The Uinta Basin 28-9* (2007). Copies of documents cited in this Petition are included in an Appendix.

² See 77 Fed. Reg. at 30,089–90.

³ See *id.*; see also 75 Fed. Reg. 2938 (Jan. 19, 2010). EPA has recognized the adverse health effects that can occur at ozone levels even below the current federal standard of 0.075 ppm, especially for children and the elderly, leading to a proposal to lower the standard. See *id.* at 2944. A recent study confirms the dire consequences of ozone exposure, even at levels below the standard, estimating that a 0.005 ppm decrease from the current standard would avoid over 1,000 premature deaths per year. Jesse Berman et al., *Health Benefits from Large-Scale Ozone Reduction in the United States*, <http://dx.doi.org/10.1289/ehp.1104851> (published online July 18, 2012).

⁴ See Energy Dynamics Lab. & Utah St. U. Research Foundation, *Uinta Basin Winter Ozone and Air Quality Study 15* (2011) (“*Uinta Basin Winter Ozone Study*”).

⁵ EPA Region 8, *Wyoming Area Designations for the 2008 NAAQS Standards Technical Support Document*, Doc.# EPA-HQ-OAR-2008-0476-0652, at 4 (2011) (“*Wyoming TSD*”).

⁶ Compare Uinta County Monitor Value Reports 2010 and 2011 with Los Angeles Monitor Value Reports 2010 and 2011, available at http://www.epa.gov/airquality/airdata/ad_rep_mon.html (generated July 16, 2012) (Uinta County peak ozone concentrations are 0.123 ppm in 2010 and 0.139 ppm in 2011, while Los Angeles County peaks at 0.105 and 0.122).

The wintertime ozone violations were first recognized in 2005 in Wyoming.⁷ By 2008, ozone values in Sublette County, Wyoming had increased over 20% from 2005 levels.⁸ The “uncommon problem” of extreme wintertime ozone readings in rural valleys was attributed to emissions from the natural gas industry.⁹ In response, Wyoming “move[d] forward to solve the problem,” recommending a nonattainment designation for the affected area.¹⁰ EPA finalized this designation as part of the final rule at issue here.¹¹

EPA has recognized the same wintertime ozone problem in the Uinta Basin. In response, EPA has undertaken efforts to gather additional data and impose controls on NOx and VOC emissions from oil and gas activities. Unlike in Wyoming, however, EPA has stopped short of designating the area nonattainment despite monitored exceedances of the 2008 standard. Through a series of consent decrees, EPA has required private companies to “fund, install, and operate ‘ambient air quality and meteorological monitoring stations’ in the Uinta Basin to gather data necessary for use in air quality monitoring under federal and state laws and regulations.”¹² The two monitors EPA required, known as the Redwash and Ouray monitors, have been monitoring ozone levels since 2009.

In that time, the monitors have measured numerous, severe violations of the 2008 ozone standard of 0.075 parts per million (ppm) established to protect public health and welfare.¹³ In the first three months of 2010, the Redwash and Ouray monitors measured more than 68 exceedances of this standard. Between January and March 2011, there were 24 days with violations.¹⁴ The highest daily 8-hour concentrations in 2010 and 2011 were 0.125 ppm and 0.139 ppm respectively—well above the federal standard set to protect public health and

⁷ See 2005 Sublette County, WY Monitor Value Reports, *available at* http://www.epa.gov/airquality/airdata/ad_rep_mon.html (generated July 18, 2012).

⁸ 2008 Sublette County, WY Monitor Value Reports, *available at* http://www.epa.gov/airquality/airdata/ad_rep_mon.html (generated July 18, 2012).

⁹ Letter from David Freudenthal, Governor, to Carol Rushin, EPA Regional Adm’r, Regarding Wyoming 8-Hour Ozone Designations (Mar. 12, 2009).

¹⁰ *Id.*

¹¹ 77 Fed. Reg. at 30,157–58.

¹² The consent decrees resulted from a series of EPA enforcement actions against oil and gas companies operating in the Uinta Basin. In addition to the required monitoring, the consent decrees required emission reductions from certain oil and gas activities, such as compressors. See *U.S. v. Kerr-McGee Corp.*, No. 07-CV-01034-EWN-KMT, 2008 WL 863975, at *2 (D. Colo. Mar. 26, 2008); see also *United States v. Kerr-McGee Corp.*, Case 1:07-cv-01034-EWN-KMT, ¶¶ 80–82 (D. Colo. May 17, 2007) (“KM Decree”); *United States v. Colo. Interstate Gas Co.*, Case 2:09-cv-00649-TS, ¶¶ 11–14 (D. Utah, July 23, 2009) (“CIG Decree”); *United States v. Miller, Dyer & Co., LLC*, Case 2:09-cv-00332-DAK, ¶ 42 (D. Utah, Sept. 23, 2009) (“MD Decree”).

¹³ See 40 C.F.R. § 50.15(a).

¹⁴ See Uinta County Monitor Value Reports 2010 and 2011.

welfare.¹⁵ For comparison, the highest ozone levels monitored in Los Angeles County in 2010 and 2011 were 0.105 and 0.122 ppm respectively.¹⁶

EPA regulations also establish a method for determining when a particular monitoring station demonstrates a violation of the 0.075 ppm standard. To avoid reliance on anomalous high-level events, EPA determines compliance based on the three-year average of the annual fourth-highest daily maximum eight-hour average measured at the site.¹⁷ Using the procedures established in 40 C.F.R. § 50, Appendix P, the Uinta Basin monitors demonstrate severe violations of the standard. The three-year average of the fourth-highest values from 2009 to 2011 for the Redwash monitor was 0.088 ppm and for the Ouray monitor was 0.100 ppm.¹⁸ These three-year averages are both higher than the three-year average from the monitor in Sublette County (0.078 ppm), which the State of Wyoming and EPA relied upon to designate the county and portions of two others as “nonattainment” for ozone.¹⁹

A Utah Division of Air Quality (DAQ) study conducted between December 2010 and March 2011 confirmed the extreme ozone levels measured by the Redwash and Ouray monitors.²⁰ In conjunction with Utah State University and the Energy Dynamics Laboratory, the Utah DAQ compiled data from six existing monitors and installed ten new monitors throughout the Uinta Basin to determine the extent and severity of the ozone problem.²¹ The study included data from the Redwash and Ouray monitors.²² In total, the monitors measured 186 ozone exceedances.²³ With respect to the highest 8-hour concentrations, seven sites exceeded 0.115 ppm, with three of those sites measuring between 0.120 ppm and 0.134 ppm, and two sites exceeding 0.134 ppm. With respect to the fourth-highest, 8-hour concentrations, seven sites exceeded 0.100 ppm, with three sites exceeding 0.115 ppm, and one site exceeding 0.120 ppm.²⁴ According to the study, “the monitoring locations with the greatest number of nearby wells also tended to have the highest ozone concentrations . . . and the greatest number of NAAQS exceedances.”²⁵

Data from a tribal monitor on Indian lands within the Uinta Basin and a National Park Service monitor within Dinosaur National Monument, which is just east of the Uinta Basin, also confirmed multiple violations of the federal ozone standard. In 2011, the Myton tribal monitor

¹⁵ *Id.*; see also BLM, Greater Natural Buttes Final Environmental Impact Statement, Chapter 3, at 3-6 (2012) (“Greater Natural Buttes FEIS”).

¹⁶ See Los Angeles Monitor Value Reports 2010 and 2011.

¹⁷ 40 C.F.R. § 50.15(b); see also 40 C.F.R. § 50, App. P.

¹⁸ Comment by WildEarth Guardians to EPA Regarding Ozone Designation Recommendations for the 2008 Ozone NAAQS, Doc. # EPA-HQ-OAR-2008-0476-0440, at 14–16 (“WildEarth Guardians Comments”).

¹⁹ Wyoming TSD, at 5.

²⁰ Uinta Basin Winter Ozone Study (2011).

²¹ *Id.* at 19.

²² *Id.*

²³ See *id.* at 42.

²⁴ *Id.* at 42, 97.

²⁵ *Id.* at 44.

recorded 19 exceedances, with a high value of 0.124 ppm and a fourth-highest value of 0.111 ppm.²⁶ Also in 2011, the Dinosaur National Monument monitor recorded eight exceedances of the ozone standard.²⁷ The highest value was 0.106 ppm, and the fourth-highest value was 0.090 ppm.²⁸ In sum, all available monitoring evidence points unambiguously to the fact that the Uinta Basin is in violation of the 2008 ozone standard.

Despite the considerable and uncontroverted evidence showing a serious ozone pollution problem that poses a threat to human health in the Uinta Basin, EPA failed to designate the Uinta Basin as a nonattainment area. Although EPA recognizes that the Redwash and Ouray monitors recorded ozone levels well-above the federal standard, EPA claims that it cannot use this data to support a nonattainment designation because the monitors are “non-regulatory.”²⁹ EPA did not explain why it considered the monitoring conducted pursuant to the consent decrees “non-regulatory” at any point during the designation process.

It was not until EPA published its response to public comments on or around May 17, 2012 that EPA provided its explanation of why the monitors are “non-regulatory.”³⁰ EPA was responding to Petitioner WildEarth Guardians’ comments demonstrating that the data from the Redwash and Ouray monitors supports a finding that the Uinta Basin is nonattainment under EPA’s own procedures found in 40 C.F.R. § 50, Appendix P (three-year average of the annual fourth-highest daily maximum).³¹ Notably, EPA does not dispute that the data shows violations of the standard under 40 C.F.R. § 50, Appendix P. Moreover, EPA concedes that the monitors “meet the siting, methodology, and operational requirements” of EPA’s regulations. EPA also concedes that the monitoring data is being “collected in a manner reasonably calculated to meet the EPA’s quality assurance/quality control (‘QA/QC’) requirements.”³² Despite these assurances, however, EPA claims that the data cannot be used for regulatory purposes because of three alleged quality assurance problems. As explained in more detail below, EPA’s arguments have no rational basis and are not supported by the record. Because EPA offered its rationale for the first time in response to comments, this Petition for Reconsideration is the first opportunity that Petitioners have had to respond.

²⁶ 2011 Utah Air Monitor Report for Ozone 4, *available at* http://www.epa.gov/airquality/airdata/ad_rep_mon.html (generated July 17, 2012).

²⁷ *Id.* at 5.

²⁸ *Id.*

²⁹ 77 Fed. Reg. 30,088, 30,089; *see also* Letter from James B. Martin, Region XIII Adm’r, EPA to Gary R. Herbert, Governor of Utah (Dec. 8, 2011), *available at* http://www.epa.gov/ozonedesignations/2008standards/rec/eparesp/08_UT_resp.pdf; Letter from James B. Martin, Region XIII Adm’r, EPA to Gary Hayes, Chairman, Ute Mountain Ute Tribe (Dec. 8, 2011), *available at* http://www.epa.gov/ozonedesignations/2008standards/rec/eparesp/T_UteMountainUte_resp.pdf.

³⁰ EPA, Responses to Significant Comments on the State and Tribal Designation Recommendations for the 2008 Ozone NAAQS, Doc. # EPA-HQ-OAR-2008-0476-0675, at 72–73 (dated Apr. 30 2012; published May 17, 2012) (“RTC”).

³¹ WildEarth Guardians Comments, at 14–16.

³² RTC at 72–73; *see also* KM Decree ¶ 81; CIG Decree ¶ 12; MD Decree ¶ 42(b).

EPA's arbitrary decision to ignore the data from the Redwash and Ouray monitors has significant legal and health implications. Instead of finding nonattainment, as the data requires, EPA designated the Uinta Basin unclassifiable. This designation does not include any additional legal requirements to reduce pollution from that of an attainment area and will therefore do nothing to curb oil and gas pollution that currently threatens the public health.

ARGUMENT

Data from the Redwash and Ouray monitors, corroborated by numerous sources, unequivocally demonstrates that the ambient air quality in the Uinta Basin is not meeting federal air quality standards and poses a threat to public health. On the basis of this data, EPA must reconsider its decision to designate the Uinta Basin unclassifiable, rather than nonattainment. EPA's rationale for failing to consider the Uinta Basin monitoring data, provided for the first time in response to public comments, violates the Clean Air Act and lacks a rational basis. EPA should also reconsider its decision because information that arose after the close of the public comment period demonstrates that the existing ozone pollution problem is likely to get worse.

I. EPA's Rationale For Failing to Consider the Uinta Basin Monitoring Data Violates the Clean Air Act and Lacks a Rational Basis

Data from the Redwash and Ouray monitors, corroborated by numerous sources, unequivocally demonstrates that the ambient air quality in the Uinta Basin is not meeting federal air quality standards and poses a threat to public health. EPA claims that it cannot rely on this data to make a nonattainment designation because these are not "regulatory" monitors. However, that is not the standard provided by the Clean Air Act. The plain language and legislative history of the Act demonstrate that EPA must consider sound data that is available. In this case, EPA concedes that the data is "reliable and of good quality." Furthermore, EPA's three justifications for not considering the data lack a rational basis and have no support in the record. Finally, EPA's position is inconsistent with its interpretation of the Act in other circumstances and is therefore not entitled to deference.

A. Under the Clean Air Act, EPA cannot disregard sound, reliable data.

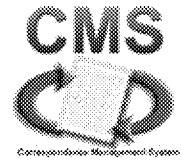
Under the Clean Air Act, EPA sets National Ambient Air Quality Standards (NAAQS) to protect public health and welfare. 42 U.S.C. § 7409(b). NAAQS designations are based on an assessment of whether the concentration of pollutants in the ambient air exceeds the standard set by EPA to protect public health and welfare. Non-attainment is defined as "any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the [NAAQS] for that pollutant." *Id.* § 7407(d)(1)(A)(i). Attainment is defined as "any area . . . that meets the national primary or secondary ambient air quality standards for the pollutant." Unclassifiable is defined as "any area that cannot be classified on the basis of *available* information as meeting or not meeting the national primary or secondary ambient air quality standard for the pollutant." *Id.* § 7407(d)(1)(A)(iii) (emphasis added).



Correspondence Management System

Control Number: AX-12-001-2137

Printing Date: July 23, 2012 04:17:09



Citizen Information

Citizen/Originator: Thompson, Jeremy

Organization: Alaska Policy Forum
Address: 201 Barrow Street #8, Anchorage, AK 99501

Kerpen, Phil

Organization: American Commitment
Address: 1100 G St. NW, Washington, DC 20005

Wilson, Bill

Organization: Americans for Limited Government
Address: 9900 Main Street, Fairfax, VA 22031

Valvo, James

Organization: Americans for Prosperity
Address: 2111 Wilson Blvd, Arlington, VA 22201

Norquist, Grover

Organization: Americans for Tax Reform
Address: 722 12th Street, NW Fourth Floor, Washington, DC 20005

Waters, Jim

Organization: Bluegrass Institute for Public Policy Solution
Address: P.O. Box 11706, Lexington, KY 40577-1706

Kidner, Barrett E.

Organization: Caesar Rodney Institute
Address: P.O. Box 795, Dover, DE 19903

Nelson, Peter

Organization: Center of the American Experiment
Address: 12 South 6th Street, Minneapolis, MN 55402

Smith, Fred

Organization: Competitive Enterprise Institute
Address: 1899 L ST NW Floor 12, Washington, DC 20036

Ebell, Myron

Organization: Freedom Action
Address: 1899 L Street, NW, Washington, DC 20036

Bechtle, Jonathan

Organization: The Freedom Foundation
Address: PO Box 552, Olympia, WA 98507

Dodd, Benita

Organization: Georgia Public Policy Foundation
Address: 6100 Lake Forest Drive Northwest, Atlanta, GA 30328

Hoffman, Wayne

Organization: Idaho Freedom Foundation
Address: PO Box 2801, Boise, ID 83701

Sanders, Jon

Organization: The John Locke Foundation
Address: 200 West Morgan Street, Raleigh, NC 27601



Correspondence Management System

Control Number: AX-12-001-2137

Printing Date: July 23, 2012 04:17:09

**Trabert, Dave**

Organization: Kansas Policy Institute
Address: 250 N. Water, Wichita, KS 67202

Healy, Brett

Organization: The John K. MacIver Institute for Public Policy
Address: 44 East Mifflin Street, Madison, WI 53703

Graham, Carl

Organization: Montana Policy Institute
Address: 67 West Kagy Blvd, Bozeman, MT 59715

Parde, Duane

Organization: National Taxpayers Union
Address: 108 North Alfred St., Alexandria, VA 22314

Kane, Kevin

Organization: Pelican Institute for Public Policy
Address: 643 Magazine Street, New Orleans, LA 70130

Racheter, Don

Organization: Public Interest Institute
Address: 600 North Jackson Street, Mount Pleasant, IA 52641

Gessing, Paul

Organization: Rio Grande Foundation
Address: P.O. Box 40336, Albuquerque, NM 87196

Hartnett, Kathleen

Organization: Texas Public Policy Foundation's Armstrong Center for Energy & the Environment
Address: 900 Congress Ave, Austin, TX 78701

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number:	AX-12-001-2137	Alternate Number:	N/A
Status:	Pending	Closed Date:	N/A
Due Date:	Aug 6, 2012	# of Extensions:	0
Letter Date:	Jul 20, 2012	Received Date:	Jul 23, 2012
Addressee:	AD-Administrator	Addressee Org:	EPA
Contact Type:	FAX (Facsimile)	Priority Code:	Normal
Signature:	DX-Direct Reply	Signature Date:	N/A
File Code:	404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.		
Subject:	Daily Reading File- EPA should stop ill-advised approach that violates states' rights and are concerned about precedent by conditioning mining project in Alaska by EPA		
Instructions:	DX-Respond directly to this citizen's questions, statements, or concerns		
Instruction Note:	N/A		
General Notes:	N/A		
CC:	OEAE - Office of External Affairs and Environmental Education		



Correspondence Management System

Control Number: AX-12-001-2137

Printing Date: July 23, 2012 04:17:09



OP - Office of Policy

OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

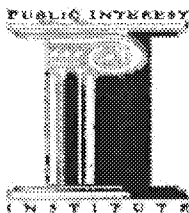
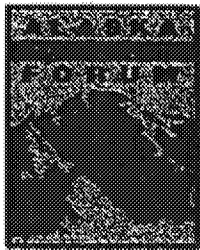
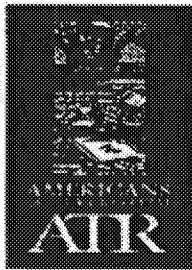
Assigner	Office	Assignee	Assigned Date
Ken Labbe	OEX	R10	Jul 23, 2012

History

Action By	Office	Action	Date
Ken Labbe	OEX	Forward control to R10	Jul 23, 2012
Ken Labbe	OEX	Changed Status For Your Information Pending	Jul 23, 2012
Ken Labbe	OEX	Changed File Code 401_127_a General Correspondence Files Record copy 404-141-02-01_141_b Controlled and Major Corr. Record copy	Jul 23, 2012
Ken Labbe	OEX	Changed Signature SNR-Signature Not Required DX-Direct Reply	Jul 23, 2012
Ken Labbe	OEX	Changed Instruction For Your Information -- No action required DX-Respond directly to this citizen's questions, statements, or	Jul 23, 2012
Ken Labbe	OEX	Changed Due Date August 06, 2012	Jul 23, 2012

Comments

Commentator	Comment	Date
No Record Found.		



July 20, 2012

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RECEIVED

2012 JUL 23 AM 8:13

OFFICE OF THE
EXECUTIVE SECRETARIAT

Dear Administrator Jackson:

We understand that a Section 404(c) Clean Water Act action to preempt the possible creation of a mining project in Alaska is being considered by the EPA. We are very concerned about the possible precedent that would be set by vetoing (or conditioning) such a mine or development project by the EPA, particularly in advance of a request for permit.

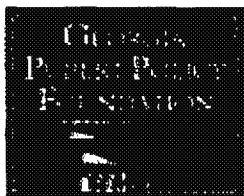
As this mineral exploration is occurring on state lands available for mining, our concerns are amplified even more. We agree with the Alaska Attorney General who believes that EPA should drop this ill-advised approach that violates states' rights.

The US needs copper and we especially need jobs that come from resource development projects that propose significant investments, more than \$6 billion in the case of Pebble. Such investment would have far reaching positive economic benefits not just for Alaska, but also for those American companies and workers who would build and supply a potential new strategic minerals mine.

Premature judgment and action by the EPA is cause for great concern, not just in Alaska, but across the country. Interested stakeholders should be able to gather information about the potential impacts of a mining plan, the potential economic effects, and the true risks of mining development near their communities once an actual plan has been proposed.

The environmental permitting process is far from perfect, but it is the law of the land. It appears to us that the EPA has taken the side of those petitioning against the mine development in its "Bristol Bay Watershed Assessment." Further, we believe that the hastily assembled watershed study of an area nearly the size of Virginia based on mines and activities made-up by the EPA is not an appropriate approach for ANY type of permitting or policy decision. This assessment also appears to be rushed for purely political reasons. This is a reckless approach and we urge you to stop this intrusion on state lands.

As is the case with the EPA's overreach in attempting to veto water permits for West Virginia's Spruce Mine (appropriately rejected by the courts), vetoing a fill permit for a potential copper mine before a plan has been filed is another ill-advised power grab by the agency. This agency action would have a dramatic chilling effect on investment in America and show that many third world countries have more regulatory certainty than the U.S. This rush to judgment is stifling proper analysis and debate on mining and this so called assessment.



We the undersigned urge you to stop spending taxpayer money on this petition. It is in the nation's best economic interests that you abandon this biased watershed assessment, dismiss the 404(c) veto petition, and wait until a permit application is filed for mining or other activities in the region before making any assessments or decisions.

Signed:

Jeremy Thompson
Executive Director, Alaska Policy Forum

Phil Kerpen
President, American Commitment

Bill Wilson
President, Americans for Limited Government

James Valvo
Director of Policy, Americans for Prosperity

Grover Norquist
President, Americans for Tax Reform

Jim Waters
President, Bluegrass Institute for Public Policy Solution

Barrett E. Kidner
Chairman & CEO Caesar Rodney Institute

Peter J. Nelson
Director of Public Policy, Center of the American Experiment

Fred Smith
President, Competitive Enterprise Institute

Myron Ebell
Executive Director, Freedom Action

Jonathan Bechtle
CEO, Freedom Foundation

Benita Dodd
Vice President, Georgia Public Policy Foundation

Wayne Hoffman
Executive Director, Idaho Freedom Foundation

Jon Sanders
Director of Regulatory Studies, The John Locke Foundation



Correspondence Management System

Control Number: AX-12-001-2140

Printing Date: July 23, 2012 04:29:16



Citizen Information

Citizen/Originator: Medlin, Jessie

Organization: DeSoto County Board of Supervisors
Address: 365 Loshier Street, Hernando, MS 38632

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2140 **Alternate Number:** 898948620568
Status: Pending **Closed Date:** N/A
Due Date: Aug 7, 2012 **# of Extensions:** 0
Letter Date: Jul 17, 2012 **Received Date:** Jul 23, 2012
Addressee: AD-Administrator **Addressee Org:** EPA
Contact Type: LTR (Letter) **Priority Code:** Normal
Signature: DX-Direct Reply **Signature Date:** N/A
File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: Daily Reading File - Desoto County, Mississippi Petition for Reconsideration of the 2008 8-Hour Ozone Non-attainment Designation for the Northern Portion of DeSoto County, Mississippi
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAE - Office of External Affairs and Environmental Education
R4 - Region 4 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OAR	Jul 23, 2012	Aug 7, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

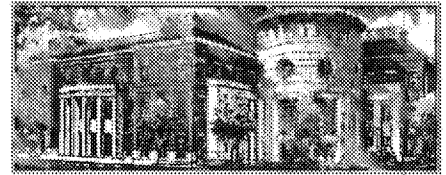
Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

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2012 JUL 23 AM 10:45



DeSoto County MISSISSIPPI
Office of the Board of Supervisors

July 17, 2012

OFFICE OF THE
EXECUTIVE SECRETARIAT

Ms. Lisa Jackson
Administrator
United States Environmental Protection Agency
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

**DeSoto County, Mississippi Petition for Reconsideration of the 2008
8-Hour Ozone Non-attainment Designation for
the Northern Portion of DeSoto County, Mississippi**

Dear Administrator Jackson:

Please let this letter and attachment serve as DeSoto County's Petition for Reconsideration of EPA 2008 8-hour ozone non-attainment designation for the northern portion of DeSoto County. DeSoto County fully adopts and incorporates into the present Petition the attached Petition for Reconsideration submitted by the Mississippi Department of Environmental Quality in this matter.

DeSoto County requests that EPA reconsider its decision to include the northern portion of DeSoto County in the Memphis non-attainment area. DeSoto County was excluded from the Memphis non-attainment area in 2004 and we believe air quality within DeSoto County has improved since that time. Forcing DeSoto County into the Memphis non-attainment area will not help Shelby and Crittenden counties achieve compliance with the ozone standard and will unduly punish DeSoto County from an economic and regulatory perspective.

We ask that you please reconsider your designation of the northern portion of DeSoto County as non-attainment and declare the entire county to be in attainment.

Sincerely,

Jessie Medlin

President, DeSoto County Board of Supervisors

Jessie Medlin • Mark Gardner • Bill Russell • Lee Caldwell • Harvey Lee
District One • District Two • District Three • District Four • District Five

365 Lusher Street | Suite 310
Hernando, MS 38632
phone 662.429.3590
fax 662.449.1422
www.desotoms.com



Correspondence Management System

Control Number: AX-12-001-2166

Printing Date: July 23, 2012 04:43:10



Citizen Information

Citizen/Originator: Levy, Claire B.

Organization: Colorado House of Representatives

Address: Colorado State Capitol- 200 East Colfax Avenue, Room 271, Denver, CO 80203

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2166

Alternate Number: N/A

Status: Pending

Closed Date: N/A

Due Date: Aug 6, 2012

of Extensions: 0

Letter Date: Jul 13, 2012

Received Date: Jul 23, 2012

Addressee: AD-Administrator, Major General Michael J. Walsh

Addressee Org: EPA, U.S. Army Corps of Engineers

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: RA-R8-Regional Administrator - Region 8

Signature Date: N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.

Subject: Daily Reading File- Moffatt Project would cause drastic water diversion of the Fraser River causing deadly accumulation of sediment and algae to macroinvertebrate species

Instructions: RA-R8-Prepare draft response for signature by the Regional Administrator for Region 8

Instruction Note: N/A

General Notes: N/A

CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAE - Office of External Affairs and Environmental Education
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	R8	Jul 23, 2012	Aug 6, 2012	N/A
Instruction: AD-Prepare draft response for the Administrator's signature					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

State Representative
CLAIRE LEVY
Colorado State Capitol
200 East Colfax Avenue, Room 271
Denver, Colorado 80203
Capitol: 303-866-2578
Cell: 720-849-8983
E-mail: claire.levy.house@state.co.us

RANKING MEMBER
Appropriations Committee
Member:
Joint Budget Committee
Legal Services Committee

July 13, 2012

Lisa P. Jackson, Administrator
U.S. EPA
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Major General Michael J. Walsh, USACE
Deputy Commanding General
U.S. Army Corps of Engineers
441 G Street NW
Washington, DC 20314-1000

Dear Ms. Jackson and General Walsh:

I am writing to you regarding the Moffat Tunnel Collection System project on behalf of my constituents in Grand County, Colorado and others who enjoy Colorado's wild places. As you know, Denver Water is developing this project and will store the additional water in an enlarged Gross Reservoir, which is also located in my House District.

I, as well as many of my constituents, support the position of Trout Unlimited concerning the Moffat Project. In its current state, the Moffat Project would divert 80% of the Fraser River over the Continental Divide and reduce the Colorado River's native flows to one fourth of their original size. Such drastic water diversion will allow sediment and algae to accumulate and will prove deadly to the Fraser River and Colorado River's macroinvertebrate species. Without macroinvertebrates, the rivers' trout and other aquatic life will be unable to survive.

Grand County is home to the headwaters of the Fraser River. It is the site of the proposed Moffat Tunnel Collection System and the source of Denver Water's other diversions from the Upper Colorado River. Grand County relies heavily on tourism and revenue generated by trout fisheries on the Fraser and Colorado rivers.

RECEIVED
2012 JUL 23 AM 11:39
OFFICE OF THE
EXECUTIVE SECRETARIAT



These fisheries, along with the recreational and tourism opportunities they provide, drive the Grand County economy. The Moffat Project water diversion has the potential to destroy these fisheries, bringing the tourism industry and Grand County's economy down with it.

The Moffat Project will primarily serve Denver Water customers that are outside the City and County of Denver. They are located in suburban communities that do not necessarily have water conservation plans, and which do not have land use and development regulations that recognize the limited water supplies available. I have concerns that Denver Water has not coupled its proposed additional diversions with robust conservation measures that would apply to its extraterritorial customers. I believe Denver Water should develop a policy that commits it not to foster or facilitate population growth in suburban metropolitan Denver at the expense of west slope river health.

I do not ask that you reject the Moffat Tunnel Collection System. However we cannot allow the Front Range's uncontrolled population expansion to despoil western slope rivers and mountain economies. Thus I am urging you to consider Trout Unlimited's mitigation proposals as set forth in its letter to you dated July 21, 2012. Trout Unlimited believes that, through stream restoration and careful operation, Denver Water would be able to preserve the health of the rivers and allow the trout population to continue to thrive. I am also urging you to look carefully at whether enforceable conservation measures and appropriate land use policies should be a condition for any additional diversions from the Fraser and Upper Colorado Rivers.

I hope that you will consider these mitigation proposals before allowing the Moffat Project to continue. The Grand County economy and health of the western slope rivers is at stake.

Sincerely,

Claire B. Levy
State Representative
House District 13

cc: Governor John Hickenlooper
Jim Martin, US EPA
Senator Mark Udall
Senator Michael Bennett
Representative Jared Polis
Representative Randy Baumgartner



Correspondence Management System

Control Number: AX-12-001-2167

Printing Date: July 23, 2012 04:35:46



Citizen Information

Citizen/Originator: Piercy, Kitty

Organization: City of Eugene

Address: 777 Pearl Street, Room 105, Eugene, OR 97401-2793

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2167

Alternate Number: N/A

Status: For Your Information

Closed Date: N/A

Due Date: N/A

of Extensions: 0

Letter Date: Jul 17, 2012

Received Date: Jul 23, 2012

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: SNR-Signature Not Required

Signature Date: N/A

File Code: 401_127_a General Correspondence Files Record copy

Subject: Daily Reading File - City Council Resolution 5064 in support of reducing greenhouse gas pollution under the Clean Air Act

Instructions: For Your Information -- No action required

Instruction Note: N/A

General Notes: N/A

CC: OAR - Office of Air and Radiation -- Immediate Office
OCIR - Office of Congressional and Intergovernmental Relations
OEAE - Office of External Affairs and Environmental Education
R10 - Region 10 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

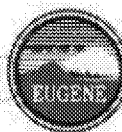
Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OAR	Jul 23, 2012

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to R10	Jul 23, 2012
Jacqueline Leavy	OEX	Control Taken Over	Jul 23, 2012

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Office of the Mayor

2012 JUL 23 AM 11:39

OFFICE OF THE
EXECUTIVE SECRETARIAT

City of Eugene
777 Pearl Street, Room 105
Eugene, Oregon 97401-2793
(541) 682-5010
(541) 682-5414 FAX
www.eugene-or.gov

July 17, 2012

EPA Administrator Lisa Jackson
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue NW
Mail Code: 1101A
Washington, DC 20460

Dear Administrator Jackson:

On behalf of the City of Eugene, Oregon, I am pleased to present City Council Resolution 5064 in support of reducing greenhouse gas pollution under the Clean Air Act.

This resolution was adopted by the Eugene City Council on July 9, 2012. With its passage, Eugene joins a growing list of communities that officially support swift and effective action to fully employ and enforce the Clean Air Act.

The City of Eugene prides itself on being a leader in the fight for clean air and against climate change. We have signed on to the U.S. Mayors Climate Protection Agreement, created our award-winning Community Climate and Energy Action Plan (CEAP), and established City Council goals to become carbon neutral in City-owned facilities and operations by 2020, and to reduce community-wide fossil fuel use 50 percent by 2030.

Sincerely,

A handwritten signature in black ink that reads "Kitty Piercy".

Kitty Piercy
Mayor

Resolution Number 5064

A RESOLUTION IN SUPPORT OF REDUCING GREENHOUSE GAS POLLUTION UNDER THE CLEAN AIR ACT.

The City Council of the City of Eugene finds that:

A. The decade from 2000 to 2010 was the warmest on record, and 2005 and 2010 tied for the hottest years on record.

B. The current level of CO₂ in the atmosphere is approximately 392 parts per million (ppm).

C. In 2008, one of the world's leading climate scientists, Dr. James Hansen, stated: "If humanity wishes to preserve a planet similar to that on which civilization developed and to which life on Earth is adapted, paleoclimate evidence and climate change suggest that CO₂ will need to be reduced from its current 385 ppm (now 4 years later at 392 ppm) to at most 350 ppm."

D. The Environmental Protection Agency determined that current and future greenhouse gas concentrations endanger public health, and according to the Global Humanitarian Forum, climate change is already responsible every year for some 300,000 deaths, seriously affecting 325 million people, and economic losses worldwide of \$US 125 billion.

E. Extreme weather events most notably heat waves and precipitation extremes, are striking with increased frequency, with deadly consequences for people and wildlife; in the United States in 2011 alone, a record 14 weather and climate disasters occurred, including droughts, heat waves, and floods, that cost at least \$US 1 billion each in damages and loss of human lives.

F. Climate change is threatening food security as crop growth and yields diminish and droughts, floods and changes in snowpack depth are disrupting water supplies.

G. Scientists have concluded that by 2100, as many as one in ten species may be on the verge of extinction due to climate change.

H. The world's land-based ice is rapidly melting, threatening water supplies in many regions and raising sea levels, and Arctic summer sea ice extent has decreased to about half what it was several decades ago, with an accompanying drastic reduction in sea-ice thickness and volume, which is severely jeopardizing ice-dependent animals like polar bears.

I. Sea level is rising faster along the U.S. East Coast than it has for at least 2,000 years, is accelerating in pace, and could rise by one to two meters in this century, threatening millions of Americans with severe flooding.

J. For four decades, the Clean Air Act has protected the air we breathe through a proven, comprehensive, successful system of pollution control that saves lives and creates economic benefits exceeding its costs by many times.

K. With the Clean Air Act, air quality in this country has improved significantly since 1970, despite major growth both in our economy and industrial production.

L. Between 1970 and 1990, the six main pollutants covered by the Clean Air Act — particulate matter and ground-level ozone (both of which contribute to smog and asthma), carbon monoxide, lead, sulfur and nitrogen oxides (the pollutants that cause acid rain) — were reduced by between 47 percent and 93 percent, and airborne lead was virtually eliminated.

M. The Clean Air Act has produced economic benefits valued at \$2 trillion or 30 times the cost of regulation.

N. The U.S. Supreme Court ruled in *Massachusetts vs. EPA* (2007) that greenhouse gases are “air pollutants” as defined by the Clean Air Act and the Environmental Protection Agency has the authority to regulate them.

O. The City of Eugene prides itself on being a leader in the fight for clean air, and against climate change by signing on to the US Mayors Climate Protection Agreement, creating our award-winning Community Climate and Energy Action Plan (CEAP), and establishing Council goals to become carbon neutral in City-owned facilities and operations by 2020, and to reduce community-wide fossil fuel use 50% by 2030.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a Municipal Corporation of the State of Oregon, as follows:

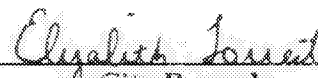
Section 1. Climate change is not an abstract problem for the future or one that will affect only far-distant places; but rather, climate change is happening now, we are causing it, and the longer we wait to act, the more we lose and the more difficult and more expensive the problem will be to solve.

Section 2. President Barack Obama and the Administrator of the Environmental Protection Agency, Lisa P. Jackson, are hereby urged to move swiftly to fully employ and enforce the Clean Air Act to do our part to reduce carbon in our atmosphere to no more than 350 parts per million.

Section 3. This resolution shall be sent to President Obama, EPA Administrator Jackson, Senators Wyden and Merkley, Congressman DeFazio, and our state legislative delegation; and the City shall lobby on its behalf where appropriate.

Section 4. This Resolution is effective immediately upon its passage by the City Council.

The foregoing Resolution adopted the 9th day of July, 2012.


City Recorder



Correspondence Management System

Control Number: AX-12-001-2168

Printing Date: July 23, 2012 04:30:28



Citizen Information

Citizen/Originator: Erwin, Don

Organization: The City of Runaway Bay Texas, Economic Development Corporation
Address: 101 Runaway Drive, Runaway Bay, TX 76426

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2168

Alternate Number: N/A

Status: Pending

Closed Date: N/A

Due Date: Aug 7, 2012

of Extensions: 0

Letter Date: Jul 12, 2012

Received Date: Jul 23, 2012

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: DX-Direct Reply

Signature Date: N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File - Resolution Opposition With Request For Reconsideration And Call For Congressional Intervention In The Matter Of Wise County, Texas Being Designated As Member Of Dallas-Fort Worth Area NAAQS 2012 Eight Hour Ozone Nonattainment Area; Attention Docket ID No. EPA-HQ-OAR-2008-0476

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAE - Office of External Affairs and Environmental Education
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Jacqueline Leavy	OEX	OAR	Jul 23, 2012	Aug 7, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

The City of Runaway Bay T E X A S

Economic Development Corporation

July 12, 2012

Lisa Jackson, Administrator
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Ave. N. W.
Mail Code 1101A
Washington, DC 20460

EXECUTIVE SECRETARIAT

OFFICE OF THE

2012 JUL 23 AM 11:39

RECEIVED

RE: ATTENTION DOCKET ID NO. EPA-HQ_OAR-2008-0476.

**RESOLUTION OPPOSITION WITH REQUEST FOR RECONSIDERATION AND
CALL FOR CONGRESSIONAL INTERVENTION IN THE MATTER OF WISE
COUNTY, TEXAS BEING DESIGNATED AS MEMBER OF DALLAS-FORT WORTH
(DFW) AREA NAAQS 2012 EIGHT HOUR OZONE NONATTAINMENT AREA.**

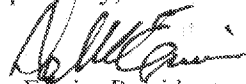
Lisa Jackson, Administrator:

On behalf of The Corporation for Economic Development of the City of Runaway Bay, Texas (Runaway Bay EDC) in Wise County please accept this letter with attached Runaway Bay EDC Resolution FY 12-01 EDC as official notice of request for re-review and reconsideration of your Conclusion Decision to add Wise County to the DFW Area nonattainment designation. After reviewing the EPA letters and information assembled by 3rd parties, it is clear there was insufficient EPA analysis of facts and scientific and technical data. In lieu of a formal EPA study and review, many incorrect and unrealistic assumptions have been relied upon to "support" the EPA's Conclusion Decision.

On multiple occasions beginning as early as October 2011, the Texas Commission on Environmental Quality (TCEQ), Wise County, and many concerned citizens of Wise County submitted reports, data, and/or comments to the EPA affirming the EPA's original conclusions are not sufficiently supported by scientific facts and data. Many analytical methods were not consistent with the actual environment that makes up Wise County. For these reasons, the Runaway Bay Economic Development Corporation believes Wise County citizens and businesses deserve reversal of the EPA's Conclusion Decision followed by Wise County based study and review to assure that Wise County remains in compliance.

Your time and consideration of this request is greatly appreciated.

Respectfully,


Don Erwin, President
Runaway Bay Economic Development Corporation
Runaway Bay, Wise County, Texas

Cc: List Attached

101 Runaway Bay Drive • Runaway Bay, Texas 76426 • 940.575.4745 • FAX 940.575.2563



Correspondence Management System

Control Number: AX-12-001-2171

Printing Date: July 23, 2012 03:14:56



Citizen Information

Citizen/Originator: Harsila, David

Organization: Alaska Independent Fishermen's Marketing Association
Address: P.O. Box 60131, Seattle, WA 98160

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2171 **Alternate Number:** N/A
Status: Pending **Closed Date:** N/A
Due Date: Aug 6, 2012 **# of Extensions:** 0
Letter Date: Jul 20, 2012 **Received Date:** Jul 23, 2012
Addressee: AD-Administrator **Addressee Org:** EPA
Contact Type: FAX (Facsimile) **Priority Code:** Normal
Signature: DX-Direct Reply **Signature Date:** N/A
File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: Daily Reading File- Ask that EPA invoke Section 404(c) of Clean Water Act and protect Bristol Bay
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: OEAAE - Office of External Affairs and Environmental Education
OP - Office of Policy
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	R10	Jul 23, 2012	Aug 6, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
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David Harsila
AIFMA (Alaska Independent Fishermen's Marketing Association)
PO Box 60131
Seattle, WA 98160

Lisa Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

RECEIVED
2012 JUL 23 PM 12:42
OFFICE OF THE
EXECUTIVE SECRETARY
July 9, 2012

Dear Administrator Jackson,

We are writing to express our strong support for the thousands of commercial fishermen who make their living in Bristol Bay, Alaska. The Bristol Bay salmon run is legendary for its size, sustainability and economic impact, generating annual revenues of some \$480 million and supporting 14,000 jobs in small businesses that pay taxes in 34 states.

As one of many companies that supports American commercial fishermen, we know that when American fisheries are damaged due to inappropriate development, any attempts to reverse damage are invariably less effective and more expensive than prevention. Recognizing that the natural resources of Bristol Bay belong to all Americans, we proudly support our fellow commercial fishermen whose jobs are threatened by development of the proposed Pebble Mine.

We thank the Environmental Protection Agency for the thorough scientific assessment of this amazing watershed, and for carrying out a public comment process. The assessment reinforces what we consider self-evident; that large-scale mining in the headwaters of the Kvichak and Nushagak watersheds poses an unacceptable risk to the waters of Bristol Bay.

We are not anti-mining, but Pebble is clearly the wrong mine in the wrong place.

We respectfully ask that that EPA invoke Section 404(c) of the Clean Water Act, and bestow on Bristol Bay the protection it needs from Pebble Mine-style large-scale mines that threaten this great American fishery, either through catastrophic events or chronic habitat degradation over time.

Sincerely,

David Harsila
AIFMA (Alaska Independent Fishermen's Marketing Association)

cc:
Honorable Senator Maria Cantwell
311 Hart Senate Office Building
Washington, DC 20510
Fax: 202.228.0514

Honorable Senator Patty Murray
448 Russell Senate Office Building
Washington, DC 20510
Fax: 202.224.0238



Correspondence Management System

Control Number: AX-12-001-2173

Printing Date: July 23, 2012 04:40:31



Citizen Information

Citizen/Originator: Fisher, Trudy

Organization: Mississippi Department of Environmental Quality
Address: P.O. Box 2261, Jackson, MS 39225-2261

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2173 **Alternate Number:** N/A
Status: Pending **Closed Date:** N/A
Due Date: Aug 6, 2012 **# of Extensions:** 0
Letter Date: Jul 17, 2012 **Received Date:** Jul 23, 2012
Addressee: AD-Administrator **Addressee Org:** EPA
Contact Type: LTR (Letter) **Priority Code:** Normal
Signature: DX-Direct Reply **Signature Date:** N/A
File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: Daily Reading File- Mississippi Petition for Reconsideration of 2008 8-Hour Ozone Non-attainment Designation for Northern Portion of DeSoto County, Mississippi
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAE - Office of External Affairs and Environmental Education
OP - Office of Policy

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Jul 23, 2012	Aug 6, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Action By	Office	Action	Date
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STATE OF MISSISSIPPI

PHIL BRYANT
GOVERNOR

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

TRUDY D. FISHER, EXECUTIVE DIRECTOR

RECEIVED

2012 JUL 23 AM 11:38

OFFICE OF THE
EXECUTIVE SECRETARIAT

July 17, 2012

Ms. Lisa Jackson
Administrator
U.S. Environmental Protection Agency
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Re: Mississippi Petition for Reconsideration of the 2008 8-Hour Ozone Non-attainment
Designation for the Northern Portion of DeSoto County, Mississippi

Dear Ms. Jackson:

Attached is the Mississippi Petition for Reconsideration regarding the EPA 2008 8-hour ozone non-attainment designation for the northern portion of DeSoto County, Mississippi. This petition addresses each of the factors listed in the EPA Technical Support Document for the Memphis TN-MS-AR metropolitan area.

For the reasons set forth in the petition, Mississippi requests that EPA reconsider its decision to include the northern portion of DeSoto County in the Memphis non-attainment area. EPA can, within its discretion, recognize the errors made in its designation decision, and more appropriately apply the best and recent scientific data to exclude DeSoto County. Exclusion would be consistent with prior EPA decisions, and would be well supported by the scientific evidence adduced by the Mississippi Department of Environmental Quality. Further, the case-by-case evaluation of the guidance factors supports the exclusion of DeSoto County and would not be inconsistent with the treatment of any other entities within EPA's regulatory control.

Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Trudy Fisher", written over a horizontal line.

Trudy Fisher
Executive Director

Attachment

cc: Ms. Gwendolyn Keyes Fleming, Regional Administrator, U.S. EPA Region 4 (w/attachment)

PETITION FOR RECONSIDERATION

The Mississippi Department of Environmental Quality (“MDEQ”) respectfully requests that the Environmental Protection Agency (“EPA”) reconsider its designation of nonattainment for the northern portion of DeSoto County, Mississippi. In support of its request, MDEQ addresses each of the factors set forth in the December 4, 2008 guidance memorandum “Area Designation for the 2008 Revised Ozone National Ambient Air Quality Standards” as the nine factors are grouped by EPA in its designation Technical Support Document. In addition, MDEQ provides additional, general objections and comments.

I. GENERAL OBJECTIONS

A. Failure to rely on or to otherwise consider most recent certified data

Prior to making its final designations, EPA indicated that in order for it to consider air quality data for the most recent time period of 2009-2011, it would need to receive the states’ certified data by February 29, 2012. Mississippi certified its data for the 2009-2011 time period on January 31, 2012. Tennessee also certified its data for the 2009-2011 time period. However, because Arkansas did not certify its data for 2009-2011, EPA only considered the 2008-2010 data in making its designation for the MS-TN-AR designations.

Mississippi asserts that EPA should have considered the most recent data, as it is the best scientific evidence of air quality in Mississippi and Tennessee at the current time. EPA stated unequivocally, indeed reiterated, in its Responses to Significant Comments 2008 Ozone NAAQS, April 30, 2012: “As stated in the previous response, we are relying on the most recent three years of certified data to designate areas for the 2008 NAAQS.” Nonetheless, EPA ignored the most recent three years of certified data from Mississippi and Tennessee in making its designations.

Even if EPA did not rely on the 2009-2011 data exclusively in making its designation, it could and should have relied on the data as proof of the facts and data asserted by Mississippi in its significant comments to the EPA preliminary designations. The most recent data demonstrates conclusively that DeSoto County does not impact the air quality in Tennessee as all of the Tennessee monitors have been certified to be in attainment during the 2009-2011 time period.

Mississippi is and has always been in attainment. The most recent certified data demonstrates overwhelmingly that despite growth in population in DeSoto County, the Tennessee monitors are not affected by Mississippi. Indeed, both Mississippi and Tennessee demonstrated by certified data that both states are in attainment. It defies logic for EPA to ignore this most recent data and draw conclusions based on old data when those conclusions are proven unequivocally to be wrong by the most recent certified data. The result is unnecessarily punitive to Mississippi and DeSoto County.



Correspondence Management System

Control Number: AX-12-001-2222

Printing Date: July 23, 2012 03:57:11



Citizen Information

Citizen/Originator: Keiser, Jessica L.

Organization: Targa Resources Corp.
Address: 1000 Louisiana, Houston, TX 77002

Craft, Zachary L.

Organization: Baker Botts L.L.P.
Address: One Shell Plaza 910 Louisiana Street, Houston, TX 77002

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2222 **Alternate Number:** N/A
Status: Pending **Closed Date:** N/A
Due Date: Aug 6, 2012 **# of Extensions:** 0
Letter Date: Jul 20, 2012 **Received Date:** Jul 23, 2012
Addressee: AD-Administrator **Addressee Org:** EPA
Contact Type: LTR (Letter) **Priority Code:** Normal
Signature: DX-Direct Reply **Signature Date:** N/A
File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: Daily Reading File- Petition by Targa Corp. for Reconsideration of stay of "Air Quality Designations for 2008 Ozone National Ambient Air Quality Standards"
EPA-HQ-OAR-2008-0476
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: N/A
CC: OEAE - Office of External Affairs and Environmental Education
OP - Office of Policy
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Jul 23, 2012	Aug 6, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, D.C. 20004

Petition by Targa Resources Corp. for reconsideration and stay of "Air Quality Designations for the 2008 Ozone National Ambient Air Quality Standards," Docket ID EPA-HQ-OAR-2008-0476, with respect to Wise County, Texas

Targa Resources Corp. ("Targa") respectfully submits this petition for reconsideration and a stay of the above-referenced final rule, in which EPA designated Wise County, Texas as nonattainment for the 2008 ozone standard. 77 Fed. Reg. 30,088 (May 21, 2012).

I. Targa's Interest in the Matter

Targa¹ owns and operates midstream energy assets predominately in EPA Region 6. Targa's assets in Wise County include a 265 MMcf/day gas processing plant and 7 compressor stations, with an additional gas plant and compressor station planned for the future. 90 employees who live in or around Wise County are dedicated to these assets, along with local contractors and other vendors. Targa's Wise County assets are currently regulated under the federal Clean Air Act, various EPA regulations, and the Texas State Implementation Plan. Wise County's ozone nonattainment designation further impacts Targa, through its Wise County assets, in the following ways:

- An ozone reduction strategy for Wise County would likely call for new emissions reductions from Targa's Wise County assets.
- An ozone reduction strategy for Wise County would likely call for new emissions reductions from oil and gas production facilities in Wise County, which are some of Targa's suppliers. This would likely have an adverse impact on local oil and gas production and the businesses (including Targa) that are linked to oil and gas production.
- A nonattainment designation for Wise County will lead to stringent air permitting requirements that would hinder development or expansion of various industrial facilities, including the types of assets operated by Targa. For example, it will likely be difficult to comply with the requirement to "offset" emission increases associated with new projects.

Targa believed this issue important enough that it participated in EPA's public comment process for developing ozone nonattainment designations by providing its own

¹ Through Targa Resources Partners LP and its subsidiaries and affiliates.

comments as well as assisting the Texas Pipeline Association ("TPA") and the Gas Processors Association ("GPA") in preparing their comments.

II. Reconsideration and a Stay are Legally Available to EPA

EPA may legally reconsider the Wise County nonattainment designation and stay the designation pending its reconsideration. The Clean Air Act provides that EPA "shall convene a proceeding for reconsideration" where an objection arises after the public comment period and is of central relevance to the rule. 42 U.S.C. § 7607(d)(7)(B). In addition, a petition for reconsideration is within Targa's "right to petition for the issuance, amendment, or repeal of a rule" under the Administrative Procedure Act. 5 U.S.C. § 553(e). Finally, "[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review."² 5 U.S.C. § 705.

III. Targa is Entitled to Reconsideration of the Wise County Nonattainment Designation

Because the Wise County nonattainment designation is not expressly made subject to Clean Air Act rulemaking procedures (*see* 42 U.S.C. § 7607(d)(1)), Targa is within its rights to petition EPA for reconsideration under the Administrative Procedure Act. However, even if the Clean Air Act framework was applied by analogy, Targa would be entitled to reconsideration, as well as a stay, for the following reasons:

A. HYSPLIT Data

EPA should reconsider and stay the Wise County designation because EPA did not provide its HYSPLIT data in sufficient time for Targa to address the data in its comments effectively, and the HYSPLIT data do not support the designation.

In addition, EPA's decision to designate Wise County nonattainment appears to have rested heavily on analysis of HYSPLIT back trajectories. *See* EPA Technical Support Document, "Dallas-Fort Worth, Texas Final Area Designations for the 2008 Ozone National Ambient Air Quality Standards" ("Final TSD") at 15, 23; EPA Technical Support Document, "Texas Area Designations for the 2008 Ozone National Ambient Air Quality Standards" ("Initial TSD") at 10, 13.

Moreover, TPA (a trade association of which Targa is a member) requested the HYSPLIT analysis from EPA so that it could be considered in developing comments. EPA shared the data 9 days before the public comment period closed, which was insufficient time for TPA or its members such as Targa to thoroughly analyze the data to respond to EPA's use of it with respect to Wise County.

Upon review, Targa believes that the HYSPLIT data does not support Wise County's designation as a nonattainment area:

² Targa and others have also filed petitions for judicial review of the designation in the U.S. Court of Appeals for the D.C. Circuit.



Correspondence Management System

Control Number: AX-12-001-2226

Printing Date: July 23, 2012 04:53:57



Citizen Information

Citizen/Originator: McEachern, Jessica

Organization: City of Bridgeport

Address: 900 Thompson Street, Bridgeport, TX 76426

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2226

Alternate Number: N/A

Status: Pending

Closed Date: N/A

Due Date: Aug 6, 2012

of Extensions: 0

Letter Date: Jul 20, 2012

Received Date: Jul 23, 2012

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: DX-Direct Reply

Signature Date: N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File- Docket ID No. EPA-HQ-OAR-2008-0476 Notice of City of Bridgeport request for reconsideration of decision to add Wise County to DFW Area nonattainment designation

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAE - Office of External Affairs and Environmental Education
OP - Office of Policy
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Jul 23, 2012	Aug 6, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

RESOLUTION NO. 2012-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIDGEPORT, TEXAS, IN OPPOSITION OF THE CONCLUSION BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) TO DESIGNATE WISE COUNTY, TEXAS AS AN ADDITION TO THE DALLAS-FORT WORTH AREA NAAQS 2012 EIGHT-HOUR OZONE NONATTAINMENT AREA.

In the matter of the United States Environmental Protection Agency (EPA) Responses to State and Tribal 2008 Ozone Designation Recommendations and its conjunctive conclusive decisions made from the EPA final "2012 Spring Review" of said 2008 Ozone Designation Recommendations in regards to ATTENTION DOCKET ID NO. EPA-HQ-OAR-2008-0476, the City of Bridgeport, Wise County, Texas, respectfully submits this vigorous Resolution of Protest to the EPA and associated Administrative Officials, along with a Call for warranted United States Congressional Intervention of the EPA 2012 designation of inclusion of Wise County, Texas into the Dallas-Fort Worth Area (DFW) Nonattainment Regional Area.

With this Resolution of Protest, the City of Bridgeport, Texas requests a full re-review by the EPA of the Technical Analysis Support Documentation and other associated Scientific Facts as were duly and timely submitted during the called EPA Comment Periods, by both Wise County, Texas and the Texas Commission on Environmental Quality (TCEQ).

Thus, the basis of this Resolution with call for review is formulated on justification of the previous actions and is so cited as being as follows:

WHEREAS, On or about May 1, 2012, the Environmental Protection Agency (EPA) announced that Wise County, Texas, is to be designated as an addition to the present nine (9) county Dallas-Fort Worth (DFW) Area list of designated nonattainment of the 2008 eight-hour ozone standard; and

WHEREAS, On October 31, 2011, the Texas Commission on Environmental Quality (TCEQ) recommended to the appropriate EPA departments, with supporting technical documentation, as to why Wise County should not be designated as part of the DFW non-attainment area; and

WHEREAS, From October 2011 through February 2012 and during the EPA's designated public comment period, Wise County and the TCEQ presented the EPA with additional support documentation which clearly demonstrates that the EPA's assessment of its own emission and meteorological factors (*EPA's Factor 2: Emissions and Emissions-Related Data*) were either ignored, incorrect, and/or did not include revised TCEQ scientific and monitoring data, including TCEQ report revisions related to the oil and gas sector pneumatic emissions for the Periodic Emissions Inventory; and

WHEREAS, According to EPA data, Wise County's minute 2010 population was 59,127, (or only approximately 0.95% of the current nine county DFW non-attainment population of approximately 6.2 million) and Wise County's 2008 vehicles miles traveled (VMT) of 969 million miles compared to the DFW area's 61,900 million (61.9 Billion) VMT reasons that it would be highly unexpected that VMT emissions for Wise County would have any significant contribution to DFW ozone-formation.; and

WHEREAS, Data from the *EPA's Factor 3: Meteorology (weather/transport patterns for the DFW Area)*, clearly shows that prevailing winds are from the east and southeast, meaning that Wise County is usually downwind of the DFW urban plume and unlikely to contribute to high ozone values (There are currently no ozone monitors located within Wise County) and given the DFW area's large population, automobile fleet, and variety of industry, the DFW area produces enough emissions on its own to result in a high ozone day – without the contributions of any of Wise County's factor numbers of population, VMT, and oil and gas activities.; and

WHEREAS, under the TCEQ's Supplemental Analysis on *Factors 2; Emissions and Emissions Related Data* and *Factor 3: Meteorology (weather/transport patterns)* for the DFW area, the TCEQ utilized an additional modeling tool, Comprehensive Air Quality Model with extensions (CAMx) Anthropogenic Precursor Culpability Assessment (APCA) as additional complementary information to the meteorology and emissions factors. The EPA did not use the updated oil and gas sector pneumatic emissions being submitted by the TCEQ in October 2011 to the EPA for Periodic Emissions Inventory from scientific and technical modeling and source apportionment analysis as provided, and therefore the VOC emissions as calculated by the stated resources/analysis methods are most likely overestimated in the modeling; and

WHEREAS, the City of Bridgeport, Texas has concluded from all the noted information and attached reports reviewed in other Analysis and Reports, along with the stated comments and conclusions as contained herein, that the EPA has not provided the citizens of Wise County a sufficient and accurate review of the evidence and data as submitted by Wise County and the TCEQ to support its conclusive decision to add Wise County to the designated nonattainment area of DFW Region, and therefore has denied, with prejudice, a lawful offer or opportunity to interact and work together with Wise County's local government officials, the State of Texas TCEQ, industry leaders, Economic Development Boards, Chambers of Commerce, and other stakeholders of Wise County in regards to EPA's air quality monitoring / decision making process, nor has EPA directly shared its specific data and justification leading to said Conclusion to place Wise County in the nonattainment region with no rebuttal process; and,

WHEREAS, the City of Bridgeport, Texas fully agrees with and supports Wise County Judge Bill McElhaney's previous comments to the EPA, including scientific and technical data, other pertinent information, and the June 15, 2012, Resolution of the Wise County Commissioners Court respectfully requesting re-consideration of the EPA 2012 designation of inclusion of Wise County, Texas into the Dallas-Fort Worth Area (DFW) Nonattainment Regional Area; and

WHEREAS, a nonattainment designation would impose unwarranted significant economic ramifications on members of the City of Bridgeport, Texas, citizens of the City of Bridgeport Area, and Wise County in general, and that it is clear that EPA lacks sufficient scientific data to justify this Conclusion decision in regards to Wise County's inclusion designation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIDGEPORT, TEXAS:

SECTION 1

That the City of Bridgeport strongly and respectfully requests that the EPA Director and other Congressional Officials remove Wise County from its Conclusion list of designated nonattainment Counties within the DFW Area immediately, being for those reasons and associated justification so stated within this Resolution.

SECTION 2

That the City recognizes the benefits of Wise County governments and leadership working with the Texas Commission on Environmental Quality (TCEQ) and to develop and implement plans, policies, programs and projects to improve the air quality in the Dallas-Fort Worth Metropolitan Area and comply with EPA regulations.

SECTION 3

That the City affirms its full support for Wise County governments to work with the TCEQ and EPA in apprising and determining true present and future statuses of air quality in Wise County, Texas.

SECTION 4

That this resolution will also be transmitted to the TCEQ Commissioners, the Governor of the State of Texas, the North Central Texas Council of Governments, other Entities and concerned stakeholders of Wise County; and all of Wise County's Honorable Federal and State Legislative Representatives.

SECTION 5

That this resolution was voted upon and unanimously approved by the City Council of the City of Bridgeport to be in effect immediately upon its adoption; said City Council members being: Scott Cheves, Kathy Kennedy, Ilene Enochs, Bobby Brazier and Billy Fred Walker.

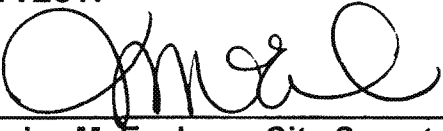
DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
BRIDGEPORT, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE
17th DAY OF July, 2012.

APPROVED:



Keith McComis, Mayor

ATTEST:



Jesica McEachern, City Secretary





Correspondence Management System

Control Number: AX-12-001-2229

Printing Date: July 23, 2012 05:02:35



Citizen Information

Citizen/Originator: Olivera, Rosemary

Organization: City of Miami Legislation

Address: City Hall, 3500 Pan American Drive, Miami, FL 33133

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2229

Alternate Number: N/A

Status: For Your Information

Closed Date: N/A

Due Date: N/A

of Extensions: 0

Letter Date: Jul 20, 2012

Received Date: Jul 23, 2012

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: EML (E-Mail)

Priority Code: Normal

Signature: SNR-Signature Not Required

Signature Date: N/A

File Code: 401_127_a General Correspondence Files Record copy

Subject: Daily Reading File - Consideration and Support of Resolution 12-0244; A Resolution of the Miami City Commission Urging Lisa P. Jackson, Administrator of the EPA and President Barack Obama To Move Swiftly To Fully Employ And Enforce The Clean Air Act To Reduce Carbon In The Atmosphere

Instructions: For Your Information -- No action required

Instruction Note: N/A

General Notes: N/A

CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAE - Office of External Affairs and Environmental Education
R4 - Region 4 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OAR	Jul 23, 2012

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to OAR	Jul 23, 2012



City of Miami

Legislation

Resolution: R-12-0244

City Hall
3500 Pan American
Drive
Miami, FL 33133
www.miamigov.com

File Number: 12-00755

Final Action Date: 7/12/2012

A RESOLUTION OF THE MIAMI CITY COMMISSION URGING LISA P. JACKSON, ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND PRESIDENT BARACK OBAMA TO MOVE SWIFTLY TO FULLY EMPLOY AND ENFORCE THE CLEAN AIR ACT TO REDUCE CARBON IN THE ATMOSPHERE, REDUCING THE LEVEL TO NO MORE THAN 350 PARTS PER MILLION; DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO ENVIRONMENTAL PROTECTION AGENCY ADMINISTRATOR LISA P. JACKSON AND TO PRESIDENT BARACK OBAMA.

WHEREAS, the decade from 2000 to 2010 was the warmest on record, and 2005 and 2010 tied for the hottest years on record; and

WHEREAS, the current level of carbon dioxide in the atmosphere is approximately 392 parts per million (ppm); and

WHEREAS, one of the world's leading climate scientists, Dr. James Hansen, stated in 2008: "If humanity wishes to preserve a planet similar to that on which civilization developed and to which life on Earth is adapted, paleoclimate evidence and climate change suggest that CO₂ will need to be reduced from its current 385 ppm to at most 350 ppm"; and

WHEREAS, the Environmental Protection Agency ("EPA") determined that current and future greenhouse gas concentrations endanger public health, and, according to the Global Humanitarian Forum, climate change is already responsible every year for some 300,000 deaths, 325 million people seriously affected, and economic losses worldwide of \$125 billion; and

WHEREAS, extreme weather events, most notably heat waves and precipitation extremes, are striking with increased frequency, with deadly consequences for people and wildlife; in the United States in 2011 alone, a record 14 weather and climate disasters occurred, including droughts, heat waves, and floods, that cost at least \$1 billion each in damages and loss of human lives; and

WHEREAS, climate change is affecting food security by negatively impacting the growth and yields of important crops, and droughts, floods and changes in snowpack are altering water supplies; and

WHEREAS, scientists have concluded that by the year 2100 as many as 1 in 10 species may be on the verge of extinction due to climate change; and

WHEREAS, sea level along the United States East Coast is rising faster than it has for at least 2,000 years, is accelerating in pace, and could rise by one to two meters in this century, threatening millions of Americans with severe flooding; and

WHEREAS, for four decades, the Clean Air Act has protected the air through a proven, comprehensive, successful system of pollution control that saves lives and creates economic benefits exceeding its costs by many times; and

WHEREAS, with the Clean Air Act, air quality in this country has improved significantly since 1970, despite major growth both in our economy and industrial production; and

WHEREAS, between 1970 and 1990, the six main pollutants covered by the Clean Air Act, particulate matter and ground-level ozone (both of which contribute to smog and asthma), carbon monoxide, lead, sulfur and nitrogen oxides (the acid gases that cause acid rain), were reduced by between 47 percent and 93 percent, and airborne lead was virtually eliminated; and

WHEREAS, the Clean Air Act has produced economic benefits valued at \$2 trillion or 30 times the cost of regulation; and

WHEREAS, the United States Supreme Court ruled in Massachusetts vs. EPA (2007) that greenhouse gases are "air pollutants" as defined by the Clean Air Act and the EPA has the authority to regulate them; and

WHEREAS, the City of Miami ("City") prides itself on being a leader in the fight against climate change and for clean air and during the past five years has:

- Adopted the Mayor's Climate Protection Agreement and established the Office of Sustainable Initiatives for the purpose of reducing the City's greenhouse gas emissions.
- Adopted the City's Climate Action Plan which set targets for reduction of greenhouse gas emissions and recommended actions to achieve those reductions.
- Taken steps to achieve greenhouse gas reductions in buildings by retrofitting City-owned buildings and participating in the Green Corridor Property Assessed Clean Energy program to retrofit commercial buildings within the City.
- Achieved greenhouse gas reductions in transportation through adoption of a Bicycle Master Plan, to make the City more bicycle friendly, and has also launched a trolley service.
- Reduced greenhouse gasses through efficient land use in Miami 21, the City's Smart Growth-based zoning code.
- Completed the construction of the Miami Green Lab facility to serve as a green building resource center to promote energy efficiency.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. The recitals and findings contained in the Preamble to this Resolution are adopted by reference and incorporated as if fully set forth in this Section.

Section 2. The Miami City Commission hereby urges Lisa P. Jackson, Administrator of the EPA and President Barack Obama to move swiftly to fully employ and enforce the Clean Air Act to reduce carbon in the atmosphere, reducing the level to no more than 350 parts per million.

Section 3. The City Clerk is directed to send a copy of this resolution to EPA Administrator Lisa Jackson and President Barack Obama.

Section 4. This Resolution shall become effective immediately upon its adoption and signature of the Mayor. {1}

Footnotes:

{1} If the Mayor does not sign this Resolution, it shall become effective at the end of ten calendar days from the date it was passed and adopted. If the Mayor vetoes this Resolution, it shall become effective immediately upon override of the veto by the City Commission.



Correspondence Management System

Control Number: AX-12-001-2231

Printing Date: July 23, 2012 04:10:39



Citizen Information

Citizen/Originator: Reed, Jason R.

Organization: Martin Marietta Materials

Address: 5710 W. Hausman Road, San Antonio, TX 78249

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2231

Alternate Number: N/A

Status: For Your Information

Closed Date: N/A

Due Date: Aug 6, 2012

of Extensions: 0

Letter Date: Jul 20, 2012

Received Date: Jul 23, 2012

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: DX-Direct Reply

Signature Date: N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File- Docket ID No. EPA-HQ-OAR-2008-0476 Request for Reconsideration, call for Congressional Intervention in matter of Wise County, Texas being designated as nonattainment area

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAE - Office of External Affairs and Environmental Education
OP - Office of Policy
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
Ken Labbe	OEX	OAR	Jul 23, 2012	Aug 6, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Martin Marietta Materials



Southwest Division
5710 W. Hausman Rd., Suite 121
San Antonio, Texas 78249
Telephone (210) 208-4020
Mobile (210) 452-4754

Delivery Via E-Mail

July 20, 2012

Ms. Lisa Jackson
Administrator of USEPA
USEPA Headquarters
12000 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, DC 20460

RE: DOCKET ID NO. EPA-HQ_OAR-2008-0476.

**RESOLUTION OPPOSITION WITH REQUEST FOR RECONSIDERATION AND
CALL FOR CONGRESSIONAL INTERVENTION IN THE MATTER OF WISE
COUNTY, TEXAS BEING DESIGNATED AS MEMBER OF DALLAS-FORT
WORTH (DFW) AREA NAAQS 2012 EIGHT HOUR OZONE NONATTAINMENT
AREA.**

Director Jackson:

On behalf of the Martin Marietta Materials, Inc. Chico Quarry, Wise County, Texas, please accept this letter as official notice of request for re-review and reconsideration of your Conclusion Decision to add Wise County to the Dallas-Fort Worth (DFW) Area nonattainment designation.

On October 31, 2011, the Texas Commission on Environmental Quality (TCEQ) recommended to the Environmental Protection Agency (EPA), with supporting technical documentation, that Wise County should not be designated as part of the DFW non-attainment area. From October 2011 through February 2012, and during the EPA designated public comment period, Wise County and the TCEQ presented the EPA with additional supporting documentation which clearly demonstrated that the EPA's assessment of its own emission and meteorological factors were either ignored, incorrect, and/or did not include revised TCEQ scientific and monitoring data.

On May 1, 2012, the EPA announced that Wise County, Texas, is to be designated as an addition to the present nine (9) county DFW Area list of designated nonattainment of the 2008 eight-hour ozone standard.

A nonattainment designation would impose significant unwarranted economic consequences on the citizens and businesses of Wise County, and the EPA has not provided Wise County officials or the TCEQ sufficient justification to support its conclusive decision to add Wise County to the designated nonattainment area of DFW.

Respectfully Submitted,



Jason R. Reed
Division Manager, Natural Resources
Martin Marietta Materials, Inc.

Cc List:

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Chance.McNeeley@mail.house.gov
Fate.reid@mail.house.gov
tschirmer@gox.state.tx.us
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Craig.cstes@senate.state.tx.us
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Correspondence Management System

Control Number: AX-12-001-2232

Printing Date: July 23, 2012 04:26:10



Citizen Information

Citizen/Originator: Clapper, James R

Organization: National Intelligence

Address: Office of the Director of National Intelligence, Washington, DC 20511

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-001-2232

Alternate Number: N/A

Status: For Your Information

Closed Date: N/A

Due Date: N/A

of Extensions: 0

Letter Date: Jul 13, 2012

Received Date: Jul 23, 2012

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: EML (E-Mail)

Priority Code: Normal

Signature: SNR-Signature Not Required

Signature Date: N/A

File Code: 401_127_a General Correspondence Files Record copy

Subject: Daily Reading File - Deterring and Detecting Unauthorized Disclosures, Including Leaks to the Media, Through Strengthened Polygraph Programs

Instructions: For Your Information -- No action required

Instruction Note: N/A

General Notes: N/A

CC: OARM - OARM -- Immediate Office

OEAEE - Office of External Affairs and Environmental Education

OEI - Office of Environmental Information - Immediate Office

OGC - Office of General Counsel -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
Jacqueline Leavy	OEX	OHS	Jul 23, 2012

History

Action By	Office	Action	Date
Jacqueline Leavy	OEX	Forward control to OHS	Jul 23, 2012

Nonresponsive Memorandum Unrelated to Bristol Bay/Pebble

Nonresponsive Memorandum Unrelated to Bristol Bay/Pebble